

### **REMARKS/ARGUMENTS**

Claims 1-31 are pending in the present application. Claims 24-31 have been withdrawn from consideration and may be made the subject of divisional or continuation applications, to be filed at any time during the pendency of the present application. No amendments have been made to the claims. Applicants respectfully request reconsideration of the subject application as amended herein. This Amendment is submitted in response to the Office Action dated April 21, 2008.

### **STATUS OF THE CLAIMS**

Claims 1, 13-17 are rejected under 35 U.S.C. § 102(b) (hereinafter, "Section 102(b)") as being anticipated by Usala (U.S. Pat. No. 5,236,703, hereinafter "Usala").

Claims 1-8, 10, 13-17 are rejected under 35 U.S.C. § 103(a) (hereinafter, "Section 103(a)") as being unpatentable over Milner (U.S. Pat. No. 5,031,245, hereinafter "Milner") in view of Fechner et al. (U.S. Pat. No. 7,241,459, hereinafter "Fechner"), Usala and Wollmann et al. (U.S. Pat. No. 3,793,059, hereinafter "Wollmann").

1-23 are rejected under Section 103(a) as being unpatentable over Milner in view of Fechner, Usala, Wollmann and Chou (U.S. Publication 2003/0204893, hereinafter "Chou").

Claim 23 was noted as allegedly being an "intended use claim" and it is unclear if claim 23 is being objected to for improper form.

Applicants respectfully traverse all rejections and request reconsideration for all of the pending claims in light of the amendments to the claims.

### **Rejection Under Section 102(b), Usala**

Claims 1, 13-17 were rejected under Section 102(b) as being anticipated by Usala.

#### **Usala**

Usala discloses a latex substrate of single or multiple layers incorporating a "control releasable" antimicrobial agent that "when in contact with a polar liquid ... prevent[s]

contamination, transmission or penetration by pathogens”. (Usala, col. 3, lines 56-60, 64-65). A multilayer article according to Usala may have “different amounts of the agent in each layer, and accordingly different release rates for each layer.” (Usala, col. 4, lines 20-22). Furthermore, Usala teaches a multilayer glove where the “glove construction could be reversed to place the no release substrate on the inner surface with the desired release rate on the outer surface.” (Usala, col. 4, lines 54-59).

### Claim 1

Independent claim 1, recites in part “a first layer of glove material, with an effective amount of antimicrobial agent therein the glove material or thereon an outer surface of the first layer; and a second layer, ...the second layer configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand.”

Applicant respectfully points out that Usala does not provide for a second layer “configured to resist penetration by the anti-microbial agent” (the agent being from the first layer) as claimed and “to resist contact between the anti-microbial agent with the hand” (again, the agent being from the first layer). Usala teaches that a “no release substrate” could be placed on the inner surface. However, this is not the equivalent to a second layer configured to resist penetration by the anti-microbial agent from the first layer. The Examiner cites this “no release substrate” as a layer “with no antimicrobial” (Action, page 3). However, an inner layer with no antimicrobial is NOT what Applicant’s claim 1 recites. Applicant respectfully contends that Examiner is reading limitations into Applicant’s claims which are not being claimed.

Moreover, on the same note, neither does a “no release substrate” in Usala equate to “no antimicrobial”. Usala in no manner states that the “povidone-iodine” is not anywhere within the substrate but teaches that it may have a “different amount of the agent in each layer”. There is in fact *some* “amount” in each layer of the same antimicrobial-agent. Usala further states that with this amount there is provided a prevention of “a nidus of infection from developing in storage or in use”. (Usala, col. 4, lines 50-53).

Importantly, Usala does not teach that this “no release substrate” is configured to resist penetration by the anti-microbial agent from the first layer. Rather, Usala is teaching that a “no

release substrate” is reversed on the inner layer such that a direct release of antimicrobial agent from the inner layer is not released from the inner layer to the skin. This is not the same as teaching that the inner layer is resisting penetration of the anti-microbial agent which comes *from the first layer*. As such, there is no teaching of a second layer to resist contact between the anti-microbial agent with the hand as required in claim 1. Accordingly since not all the claimed limitations of claim 1 are taught by Usala, Applicant submits claim 1 is novel and patentable. Applicant respectfully requests withdrawal of the rejection of claim 1 under Section 102(b).

#### Dependent Claims 13-17

Dependent claims 13-17 include all limitations of their respective base claim 1. Accordingly, Applicant respectfully submits that these dependent claims are all allowable for at least the same reasons as their base claim 1.

Applicant respectfully disagrees with any assertions regarding the dependent claims from the Office Action. Any such assertions have been made moot by the above discussion of the base claim. Applicant respectfully requests withdrawal of the rejection of claims 13-17 under Section 102(b) based on Usala.

#### **Rejection Under Section 103(a), Milner in view of Fechner, Usala and Wollmann**

Claims 1-8, 10, 13-17 were rejected under Section 103(a) as being unpatentable over Milner in view of Fechner, Usala and Wollmann.

#### Independent Claim 1

Independent claim 1 as discussed above recites in part, “a second layer, to be closer to a hand than the first layer, when the glove is worn on the hand, the second layer configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand.” The cited references fail to teach each and every element of claim 1.

Milner has been cited for showing a glove incorporating an antimicrobial agent into glove material. However, Milner fails to teach the “first layer” and the “second layer” glove structure as Applicant has claimed. Contrary to Examiner’s assertion, as explained above, Usala does *not*

provide for the deficiencies of Milner. Usala actually does not teach a “second layer configured to resist...penetration by the anti-microbial”. Usala teaches multiple layers each with different amounts of the antimicrobial agent. (col. 4, lines 20-22). There is no teaching in Usala that one of its layers closer to the skin is configured to resist penetration of *the agent from the other layer*. Rather, Usala only teaches that the inner layer has a “no release substrate” of its own amount of agent, meaning that it prevents the agent emanating from this inner layer from contacting the skin, and not the agent from the first layer from contacting the skin. Accordingly, there is no teaching of all the claimed limitation of claim 1 from a combination of Milner and Usala.

Neither does a combination of these references with Fechner or Wollmann provide for the claimed limitations of claim 1. Fechner or Wollmann do not bear on the limitations as discussed above with regard to claim 1 as they too do not provide the required limitation of the “the second layer configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand.” The combination of the references do not render claim 1 obvious since the references, at most, only show that it is concerned with the antimicrobial agent of the inner layer and NOT the agent of the first layer from contacting the hand.

Accordingly, the references alone or in combination fail to teach each and every claim limitation of claim 1. Applicant respectfully submits that claim 1 is novel and nonobvious over Milner in view of Fechner, Usala and Wollmann since at least not all the limitations have been taught or suggested by the cited references. Dependent claims 2-8, 10, 13-17 are novel and nonobvious for at least the same reasons as their base claim 1 and also for the additional elements they each recite.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 1 and respective dependent claims under Section 103(a).

#### **Rejection Under Section 103(a), Milner in view of Fechner, Usala, Wollmann and Chou**

Claims 1-23 were rejected under Section 103(a) as being unpatentable over Milner in view of Fechner, Usala, Wollmann and Chou. The discussion about with respect to the Section 103(a) rejection against independent claim 1 is applied herewith to the rejection of claims 1-23,

as the only difference is the addition of the Chou reference. The Chou reference also does not provide for the deficiencies as mentioned above with respect to Milner and Usala and therefore not ALL the claimed limitations are taught. Chou is used to show the use of aloe vera and other dependent limitations, yet, the basic missing elements from Usala are still not provided. There is no teaching of a disposable protective glove having an “antimicrobial agent” of a “first layer” and a “second layer configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand.” Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 1 and respective dependent claims under Section 103(a).

#### Independent claim 18

Claim 18 and its dependent claims are also allowable over Milner in view of Fechner, Usala, Wollmann and Chou for similar reasons. Claim 18 recites in part, “wherein the inner layer serves as a barrier between the skin and the outer layer so to resist developing of antimicrobial resistance in microbes on the skin”. Such limitations are nowhere shown to be taught in the references cited.

As mentioned, Usala is concerned with the agent being released by the “inner layer” to the skin. There is no discussion as to the antimicrobial agent of the “outer layer” contacting the skin. Thereby, neither is there any teaching of resisting a development of “antimicrobial resistance in microbes on the skin”. Neither does Fechner, Wollmann and Chou provide for the deficiencies as discussed above. Accordingly, for at least these reasons, claim 18 is novel and patentable over the cited references.

Dependent claims 19-23 are novel and nonobvious for at least the same reasons as their base claim 18 and also for the additional elements they each recite. For example, claim 19 recites that “the antimicrobial agent is distributed within the outer layer *and* applied onto the outer layer.”(emphasis added). Milner in view of Fechner, Usala, Wollmann and Chou in no manner teach of such a configuration of a disposable protective glove.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 18 and respective dependent claims under Section 103(a).

### **Claim 23**

Applicant respectfully traverses any objection to the form of claim 23. Claim 23 recites: “A disposable protective article according to claim 18, wherein the disposable protective article comprises a disposable protective examination glove.” There is no mention of any “intended use” in the claim. Applicant respectfully requests how the structural limitation of an “examination glove” which is clearly in the body of the claim, not its preamble, can be interpreted as an intended use. The claim recites a “disposable protective article” and clearly adds on the limitation that the article claimed is the structure of a “disposable protective examination glove”. It is not clear what exactly the objection to this claim is if it is deemed to be an objection, and the discussion with regard to claim 23 in the Action on page 7-8.

Accordingly, claim 23 is believed allowable as discussed above in that none of the cited references teach or suggest ALL the claimed limitations of the claim.

### **CONCLUSION**

The above-discussed remarks are believed to place the present Application in condition for allowance and action towards that effect is respectfully requested. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant’s representative at the number listed below.

Respectfully submitted,

Date: October 21, 2008

/Juneko Jackson/  
Otto O. Lee (Reg. No.: 37,871)  
Juneko Jackson (Reg. No.: 48,870)  
Intellectual Property Law Group LLP  
Attorneys for Applicant

Atty Docket No.: SHENW.PT4  
Contact No.: 408-286-8933